

Message Text

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INFO OCT-01 AF-10 ARA-16 EA-11 EUR-25 NEA-10 RSC-01 IO-14

ISO-00 SSO-00 NSCE-00 USIE-00 INRE-00 CIAE-00 DODE-00

PM-07 H-03 INR-10 L-03 NSAE-00 NSC-10 PA-04 PRS-01

SPC-03 SS-20 ACDA-19 OIC-04 COME-00 FMC-04 CG-00

COA-02 DLOS-06 SCI-06 CEQ-02 NSF-04 OMB-01 DRC-01

AGR-20 DOTE-00 INT-08 JUSE-00 /237 W

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O 182144Z OCT 73

FM AMEMBASSY LONDON

TO SECSTATE WASHDC IMMEDIATE 4932

INFO AMEMBASSY THE HAGUE IMMEDIATE

USMISSION USUN NEW YORK IMMEDIATE

C O N F I D E N T I A L SECTION 01 OF 02 LONDON 12161

E.O. 11652: GDS

TAGS: IMCO, PBOR, SENV

SUBJECT: IMCO - MARINE POLLUTION CONFERENCE - LOS
PROBLEM

1. AS EXPECTED, CONFRONTATION OVER ARTICLE 8 DEVELOPED
BETWEEN COASTAL STATES FAVORING 8(1) AND MARITIME STATES
FAVORING ADDITION OF ARTICLE 8(2). IN FACE US POSITION,
MARITIME STATES SEEMED PRIVATELY PREPARED DELETE ALL OF
ARTICLE 8. CANADA AND OTHER COASTAL STATES REFUSED.

2. IN THIS SITUATION, GREECE, THE NETHERLANDS, NORWAY,
SWEDEN, AND THE UK INTRODUCED THE FOLLOWING PROPOSAL:
ARTICLE 8(1) WOULD READ:

"(1) NOTHING IN THE PRESENT CONVENTION SHALL BE
CONSTRUED AS DEROGATING FROM THE POWERS OF ANY CON-
TRACTING STATE TO TAKE STRICTER MEASURES WITHIN ITS
JURISDICTION IN RESPECT OF DISCHARGE STANDARDS OR AS
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EXTENDING THE JURISDICTION OF ANY CONTRACTING

STATE."

ARTICLE 8(2) A:

"(2) A CONTRACTING STATE SHALL NOT WITHIN ITS JURISDICTION IN RESPECT OF SHIPS TO WHICH THE CONVENTION APPLIES OTHER THAN ITS OWN SHIPS, IMPOSE REGULATIONS IN RESPECT OF POLLUTION CONTROL REGARDING SHIP DESIGN, EQUIPMENT AND MANNING, WHICH ARE NOT IN ACCORDANCE WITH THE PROVISIONS OF THE REGULATIONS."

ARTICLE 8(2) B:

(2) THE REQUIREMENTS OF SUB-PARAGRAPH A DO NOT APPLY TO MEASURES IN INLAND WATERWAYS OF A CONTRACTING STATE WHICH CAN BE REACHED BY SEA-GOING SHIPS NOR TO MEASURES TAKEN IN ACCORDANCE WITH ACCEPTED SCIENTIFIC CRITERIA IN WATERS, THE PARTICULAR CHARACTERISTICS OF WHICH RENDER THE ENVIRONMENT EXCEPTIONALLY VULNERABLE."

ARTICLE 8(3):

"(3) STATES WHICH ADOPT SPECIAL MEASURES IN ACCORDANCE WITH THIS ARTICLE SHALL NOTIFY THEM TO THE ORGANIZATION WITHOUT DELAY. THE ORGANIZATION SHALL INFORM CONTRACTING STATES ABOUT THESE MEASURES."

3. THE COASTAL STATES RESPONDED QUICKLY WITH THE FOLLOWING SIMILAR COUNTER-PROPOSAL SPONSORED BY: AUSTRALIA, BRAZIL, CANADA, GHANA, ICELAND, INDONESIA, IRAN, IRELAND, NEW ZEALAND, PHILIPPINES, SPAIN, URUGUAY AND TRINIDAD-TOBAGO:

A. ARTICLE 8:

(1) NOTHING IN THE PRESENT CONVENTION SHALL BE CONSTRUED AS DEROGATING FROM THE POWERS OF ANY CONTRACTING STATE TO TAKE SPECIAL MEASURES WITHIN ITS JURISDICTION IN RESPECT OF DISCHARGE STANDARDS.

(2) A CONTRACTING STATE SHALL NOT WITHIN ITS JURISDICTION IMPOSE REGULATIONS IN RESPECT OF POLLUTION CONTROL REGARDING SHIP DESIGN WHICH ARE NOT IN ACCORDANCE WITH THE PROVISIONS OF THE REGULATIONS. THE REQUIREMENTS OF THIS PARAGRAPH DO NOT APPLY TO WATERS THE PARTICULAR CHARACTERISTICS OF WHICH RENDER THE ENVIRONMENT EXCEPTIONALLY VULNERABLE.

(3) CONTRACTING STATES WHICH ADOPT SPECIAL MEASURES
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IN ACCORDANCE WITH THIS ARTICLE SHALL NOTIFY THEM TO THE ORGANIZATION WITHOUT DELAY. THE ORGANIZATION SHALL THEREAFTER NOTIFY SUCH SPECIAL MEASURES TO THE OTHER CONTRACTING STATES.

4. WHILE WE HAVE, OF COURSE, OTHER NON-LOS PROBLEMS WITH BOTH TEXTS UNDER OUR INSTRUCTIONS, THE LOS PROBLEM WITH BOTH OF THEM OF COURSE IS THE ACCEPTANCE OF THE IDEA

THAT COASTAL STATES MAY TAKE MEASURES WITHIN THEIR
JURISDICTION IN WATERS THE PARTICULAR CHARACTERISTICS
OF WHICH RENDER THE ENVIRONMENT EXCEPTIONALLY VULNERABLE.
SHOULD THIS BE
ACCEPTED, AT LOS CONFERENCE CANADA AND OTHERS WOULD
DOUBTLESSLY ARGUE THAT THIS ASPECT OF THE CONTENT OF
COASTAL STATE POLLUTION JURISDICTION HAS ALREADY BEEN
PREVIOUSLY DECIDED.

5. WHILE CANADA PRIVATELY ADMITTED TO US THAT EITHER

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C O N F I D E N T I A L SECTION 02 OF 02 LONDON 12161

TEXT IS VERY PREJUDICIAL ON LOS, THEY CORRECTLY POINT
OUT THAT INTRODUCTION OF MARITIME STATE PROPOSAL FORCED
THEM TO MOVE ON THIS ISSUE. ON THE OTHER HAND, WE ARE
HAVING GREAT DIFFICULTY PERSUADING THE MARITIME STATES
THAT THEIR PROPOSAL IS SERIOUSLY PREJUDICIAL TO LOS
INTERESTS. MOREOVER, THE SOVIETS COULD ACCEPT THE

MARITIME STATE PROPOSAL AND IN FACT WANTED A QUICK VOTE ON THE ISSUE WHILE WE WERE ATTEMPTING TO DELAY. THE SOVIETS HAVE SPECIFICALLY TOLD US THAT THEY CAN ACCEPT EITHER THE MARITIME STATE PROPOSAL OR DELETION OF ALL OF ARTICLE 8. THUS FAR, CANADA AND OTHER COASTAL STATES REFUSE TO AGREE TO DELETE ALL OF ARTICLE 8.

6. CHAIRMAN HAS DEFERRED VOTING ON ARTICLE 8 POSSIBLY UNTIL MONDAY. REQUEST LOS OFFICIALS AND OTHERS TAKE URGENT STEPS IN WASHINGTON OR NEW YORK AS APPROPRIATE TO ATTEMPT TO BUILD MARITIME STATE SUPPORT FOR OUR VIEW AND LAY THE FOUNDATION FOR NECESSARY DIPLOMATIC EFFORT IF CONFIDENTIAL

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WE ARE DEFEATED IN COMMITTEE AND MUST ATTEMPT A BLOCKING THIRD IN PLENARY. LATTER PROSPECTS NOT VERY BRIGHT AS MANY MARITIME STATES MAY VOTE FOR A PREJUDICIAL PROPOSAL IN COMMITTEE.

7. COMMENT: THIS SITUATION LARGELY BROUGHT ABOUT BY FACT THAT MOST MARITIME STATE DELEGATIONS DO NOT REPEAT NOT HAVE SENIOR LOS OFFICIALS, AND ARE MORE CONCERNED WITH PROHIBITING HIGHER CONSTRUCTION STANDARDS THAN WITH IMPLICATIONS REGARDING COASTAL STATE POLLUTION JURISDICTION.

8. FOR THE HAGUE: REQUEST YOU BRING TEXT SPONSORED BY NETHERLANDS TO ATTENTION PROFESSOR RIPHAGEN AND EXPLAIN OUR VIEW THAT ARTICLE 8(2)(B) IS SERIOUSLY PREJUDICIAL TO LOS NEGOTIATIONS.
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